



BOARD OF COUNTY COMMISSIONERS SHELBY COUNTY, TENNESSEE

AGENDA

Monday, October 12, 2009

*Commissioner David Lillard, Chairman
Commissioner Deidre Malone, Chairman Pro Tempore
Commissioner Joyce Avery
Commissioner Henri E. Brooks
Commissioner Wyatt Bunker
Commissioner Mike Carpenter
Commissioner Sidney Chism*

*Commissioner George Flinn
Commissioner Joe Ford
Commissioner J.W. Gibson II
Commissioner James Harvey
Commissioner Steve Mulroy
Commissioner Mike Ritz*

5/19/2010 5:46 PM

1:30 PM

COMMISSION CONVENES

CALL TO ORDER

Chairman David Lillard

OPENING OF THE COMMISSION

Deputy Sheriff

INVOCATION

**Pastor Tim Cox
Brinkley Heights Ministries**

PLEDGE OF ALLEGIANCE

ROLL CALL

[Opening of the Commission](#)

[Invocation](#)

[Approval of Minutes of Previous Session
September 28, 2009](#)

Motion made by Commissioner Ford and seconded by Commissioner Malone.

Passed

For: 11; Commissioner Brooks, Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Carpenter,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

C O N S E N T A G E N D A

Resolutions of Memorial, Sympathy and Commendation

Ordinances

FLINN
Chairman,
General
Government
Committee

1. [**ORDINANCE - FIRST READING - An ordinance to amend the Shelby County Code of Ordinances by adding a new section to Chapter 2, Article II to establish procedures for boards, commissions, authorities, and other public bodies relative to compliance with the public notice provisions of the Tennessee Open Meetings Act. Sponsored by Commissioner George Flinn. \(DEFERRED TO 10/26/09\)**](#)

BROOKS
Chairman,
Core City
Committee

2. [**ORDINANCE - SECOND READING - an ordinance to amend the Code of Ordinances of Shelby County, Tennessee, to include regulations for the proper disposal of tires and the registration of certain tire businesses within Shelby County. Sponsored by Commissioner Steve Mulroy. \(AMENDED IN**](#)

COMMITTEE 10/7/09)

Zoning and Subdivisions

Reports and/or Resolutions for Standing
Committees

MALONE
Chairman,
Public Works
Committee

3. Resolution approving the agreement with the Shelby County Healthcare Corporation d/b/a the Regional Medical Center to purchase gasoline and diesel fuel for its vehicle fleet from Shelby County Government through its Fleet Services Division at the cost incurred by the County plus an adjustment for administrative and operational costs at any of the County fuel stations. Sponsored by Commissioner Deidre Malone.

MALONE
Chairman,
Public Works
Committee

4. Resolution approving expenditure of funds in the amount not to exceed \$480,000.00 for space renovations in the Shelby County Office Building at 157 Poplar; and this item requires expenditure of County CIP Funds in the amount of \$480,000.00 from the FY 2009-2010 Budget for CIP Number 307372, 157 Poplar. Sponsored by Commissioner Deidre Malone.

MALONE
Chairman,
Public Works
Committee

5. Resolution granting a permanent telecommunications easement and a permanent utility easement to Bellsouth Telecommunications, Inc., across County owned real property known as the Shelby County Sheriff's Substation property located at 11670 Memphis-Arlington Road; and authorizing the Shelby County Mayor to execute the permanent telecommunications easement and permanent utility easement document. Sponsored by Commissioner Deidre Malone.

MALONE
Chairman,

6. Resolution granting a permanent telecommunications easement to Bellsounh

**Public Works
Committee**

Telecommunications, Inc., across County owner real property, currently leased to the Town of Collierville, located on the north side of Frank Road, approximately 821.56 feet east of Stanton Hall Road; and authorizing the Shelby County Mayor to execute the permanent telecommunications easement document. Sponsored by Commissioner Deidre Malone.

**MALONE
Chairman,
Public Works
Committee**

7. Resolution approving the lease of 3,762 square feet of County owned office space located on the 3rd floor of 150 Washington Avenue, to Shelby County Employees Federal Credit Union for its use in conducting the regular, usual and customary business of a credit union; and to authorize the Shelby County Mayor to execute the lease agreement. Sponsored by Commissioner Wyatt Bunker.

**MALONE
Chairman,
Public Works
Committee**

8. Resolution approving an extension to the option agreement with Metal Management Memphis, LLC for possible lease of certain property in Pidgeon Industrial Park, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on July 22, 2009. This resolution sponsored by Commissioner Deidre Malone.

**MALONE
Chairman,
Public Works
Committee**

9. Resolution approving Interlocal Agreement between Memphis Light, Gas And Water Division and Shelby County Government on behalf of the Public Works Division for Fire Fee billing and related services in Shelby County, Tennessee. Sponsored by Commissioner Deidre Malone.

**HARVEY
Chairman,
Economic
Development
Committee**

10. A resolution approving an agreement in the amount of \$175,000 by and between Memphis and Shelby County Government and the Memphis Regional Chamber of Commerce for the purpose of facilitating economic development in Memphis and Shelby County. This item requires the expenditure of Economic Development Grant Funds in the

amount of \$175,000. Sponsored by Commissioner Deidre Malone.

Motion made by Commissioner Carpenter and seconded by Commissioner Gibson.

Passed

For: 11; Commissioner Brooks, Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Mulroy,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

MALONE
Chairman,
Public Works
Committee

11. Resolution approving a contract with Standard Construction Company for the FY 2009/2010 Asphalt Resurfacing Program, in an amount not to exceed \$1,814,582.50 and this item requires the expenditure of State Gas Tax Funds in the amount of \$1,814,582.50. Sponsored by Commissioner Deidre Malone. (ADD-ON IN COMMITTEE 10/7/09)

CARPENTER
Chairman,
Community
Services
Committee

12. Resolution amending the FY 2010 Operating Budget for a U. S. Department of Labor – Employment and Training Administration Grant in the amount of \$579,903.00 for the Youthbuild Program. This item requires appropriation and expenditure of U.S. Department of Labor – Employment and Training Administration Grant Funds in the amount of \$579,903.00. Sponsored by Commissioner Mike Carpenter.

CARPENTER
Chairman,
Community
Services
Committee

13. Resolution approving a contract with Southeast Mental Health Center in the amount of \$850,000.00 for the provision of detoxification services, and amending the FY 2010 Operating Budget in the amount of \$566,667.00 for this purpose. Sponsored by Commissioner Mike Carpenter.

BROOKS

14. Resolution rescinding the sale of one County

Chairman,
Delinquent Tax
Property
Committee

owned delinquent tax parcel, acquired from Shelby County Trustee Tax Sale No. 0203 and sold to trustees of St. James CME Church, pursuant to T.C.A. §67-5-2507, and authorizing the Shelby County Mayor to execute all documents necessary to refund the sale price to trustees of St. James CME Church in the amount of \$7,000.00 and the closing cost in the amount of \$92.90 for said property; and amending the FY 09-10 Budget. Sponsored by Commissioner Wyatt Bunker. (AMENDED IN COMMITTEE 10/7/09)

BROOKS
Chairman,
Delinquent Tax
Property
Committee

15. Resolution approving the sale of eleven (11) County owned delinquent tax parcels, acquired from Shelby County Trustee Tax Sale Nos. 0005, 0501, 0203, 0403, 0404, 0405, and 0406, to identified purchasers at various prices collectively totaling \$24,800.00, pursuant to the sale provisions of T.C.A. §67-5-2507 and authorizing the Shelby County Mayor to execute quit claim deeds. Sponsored by Commissioner Henri Brooks.

Motion made by Commissioner Mulroy and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Brooks,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

BROOKS
Chairman,
Delinquent Tax
Property
Committee

16. Resolution approving the conveyance of one (1) County owned delinquent tax parcel, acquired from Shelby County Trustee Tax Sale No. 0405, to the State of Tennessee, for nominal consideration, pursuant to T.C.A. §67-5-2509(d) and authorizing the Shelby County Mayor to execute a quit claim deed. Sponsored by Commissioner Henri Brooks.

Motion made by Commissioner Gibson and seconded by Commissioner Chism.

Passed

For: 11; Commissioner Ford, Commissioner Malone,
Commissioner Kuhn, Commissioner Mulroy,
Commissioner Carpenter, Commissioner Harvey,
Commissioner Flinn, Commissioner Gibson,
Commissioner Avery, Commissioner Chism,
Commissioner Bunker,
Against: 0; (None)
Abstain: 1; Commissioner Brooks,
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

Approval of the Consent Agenda

Motion made by Commissioner Gibson and seconded by
Commissioner Ford.

Passed

For: 12; Commissioner Brooks, Commissioner Ford,
Commissioner Malone, Commissioner Kuhn,
Commissioner Mulroy, Commissioner Carpenter,
Commissioner Harvey, Commissioner Flinn,
Commissioner Gibson, Commissioner Avery,
Commissioner Chism, Commissioner Bunker,
Against: 0; (None)
Abstain: 0; (None)
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

R E G U L A R A G E N D A

Elections, Appointments, and Confirmations

FLINN
Chairman,
General
Government
Committee

17. [Resolution approving the election of notaries
public for appointment and/or reappointment for
Shelby County, Tennessee. Sponsored by
Commissioner Joe Ford.](#)

Motion made by Commissioner Carpenter and seconded by
Commissioner Mulroy.

Passed

For: 12; Commissioner Brooks, Commissioner Ford,
Commissioner Malone, Commissioner Kuhn,
Commissioner Mulroy, Commissioner Carpenter,
Commissioner Harvey, Commissioner Flinn,
Commissioner Gibson, Commissioner Avery,
Commissioner Chism, Commissioner Bunker,
Against: 0; (None)
Abstain: 0; (None)

Recused: 0; (None)
Absent: 0; (None)

FLINN
Chairman,
General
Government
Committee

18. Resolution approving the County Mayor's appointment of Lou Etta Burkins, Julie Ellis, Andre Fowlkes, J.W. Gibson, Richard L. Hodges, Linda Kerley, Billy Orgel, Chris Patterson, Randolph Meade Walker, and Rufus Washington to the Memphis and Shelby County Metropolitan Government Charter Commission and establishing the effective date of the appointments, the date for an organizational meeting, the nine month period for proposing a charter, and the deadline for filing a proposed charter. Sponsored by Commissioner Deidre Malone.

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 8; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery,

Against: 2; Commissioner Chism, Commissioner Bunker,

Abstain: 2; Commissioner Ford, Commissioner Mulroy,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Malone and seconded by Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 1; Commissioner Ford,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Motion made by Commissioner Bunker and seconded by Commissioner Chism.

Passed

For: 6; Commissioner Ford, Commissioner Mulroy, Commissioner Harvey, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 5; Commissioner Brooks, Commissioner Malone, Commissioner Kuhn, Commissioner Carpenter, Commissioner Gibson,

Abstain: 1; Commissioner Flinn,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

Ordinances

FORD

19. [ORDINANCE - THIRD READING - Ordinance by the](#)

Chairman,
Hospitals and
Health
Committee

Board of County Commissioners of Shelby County, Tennessee, to amend Chapter 14.5 of the Shelby County Code of Ordinances to retain the same annual emission fees earmarked for the Memphis and Shelby County Health Department's Air Pollution Program, which are charged to air pollution emission sources for the calendar year 2007 as a review of funds on hand indicate a continued balance sufficient to fund the air program. Sponsored by Commissioner Joyce Avery.

Motion made by Commissioner Carpenter and seconded by Commissioner Gibson.

Passed

For: 11; Commissioner Brooks, Commissioner Ford, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,
Against: 0; (None)
Abstain: 1; Commissioner Malone,
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

Zoning and Subdivisions

Reports and/or Resolutions for Standing Committees

GIBSON
Chairman,
Budget and
Finance
Committee

20. Resolution establishing a fund balance policy for the General Fund and Debt Service Fund and to eliminate the Rainy Day Fund. Sponsored by Commissioner J. W. Gibson.

Motion made by Commissioner Mulroy and seconded by Commissioner Gibson.

Passed

For: 11; Commissioner Brooks, Commissioner Ford, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,
Against: 0; (None)

Abstain: 1; Commissioner Malone,
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

GIBSON
Chairman,
Budget and
Finance
Committee

21. [Resolution to amend Shelby County Retirement System Plan B to add an automatic Cost of Living Adjustment for certain retirees and survivors for calendar years 2010, 2011, and 2012. Sponsored by Commissioner J.W. Gibson, II. \(ADD-ON IN COMMITTEE 10/7/09 AND DEFERRED TO 10/26/09\)](#)

CHISM
Chairman, Law
Enforcement
Committee

22. [Resolution authorizing filing a petition to the Tennessee Supreme Court for permission to appeal the decision of the Court of Appeals of Tennessee at Nashville in the case of CURTIS S. PERSON VS. THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, ET AL. Sponsored by Commissioner Sidney Chism. \(ADD-ON IN COMMITTEE 10/7/09\)](#)

Motion made by Commissioner Malone and seconded by Commissioner Mulroy.

Passed

For: 8; Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Gibson, Commissioner Chism,
Against: 2; Commissioner Avery, Commissioner Bunker,
Abstain: 2; Commissioner Brooks, Commissioner Flinn,
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

BUNKER
Chairman,
Education
Committee

23. [Resolution amending the 2010 Capital Improvement Budget and appropriating funds in the amount of \\$4,061,079.00 for capital funding for Memphis City and Shelby County Schools. Sponsored by Commissioner Mike Ritz.\(AMENDED IN COMMITTEE AND DEFERRED TO 10/26/09\)](#)

FLINN
Chairman,
General
Government

24. [Resolution amending a resolution adopted as Item No. 28 on August 31, 2009, establishing the Metropolitan Government Charter Commission, so as to require said Charter Commission to appear](#)

Committee

[before the County Commission prior to finalizing the proposed charter. Sponsored by Commissioner Deidre Malone.](#)

Motion made by Commissioner Malone and seconded by Commissioner Mulroy.

Passed

For: 9; Commissioner Brooks, Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Gibson, Commissioner Bunker,

Against: 1; Commissioner Avery,

Abstain: 2; Commissioner Flinn, Commissioner Chism,

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

FLINN
Chairman,
General
Government
Committee

25. [Resolution amending the FY 2010 Operating Budget and Position Control Budget of the Shelby County Election Commission to fund a salary increase for Position 860962. Sponsored by Commissioner George Flinn. \(ADD-ON IN COMMITTEE 10/7/09\)](#)

Motion made by Commissioner Carpenter and seconded by Commissioner Gibson.

Passed

For: 12; Commissioner Brooks, Commissioner Ford, Commissioner Malone, Commissioner Kuhn, Commissioner Mulroy, Commissioner Carpenter, Commissioner Harvey, Commissioner Flinn, Commissioner Gibson, Commissioner Avery, Commissioner Chism, Commissioner Bunker,

Against: 0; (None)

Abstain: 0; (None)

Recused: 0; (None)

Absent: 1; Commissioner Ritz,

BROOKS
Chairman,
Core City
Committee

26. [Resolution approving the transfer of title of one hundred forty parcels of Homestead Program Property pursuant to the Tennessee Code Annotated 7-66-101 to 7-66-111 and Resolution #24 adopted by the Shelby County Board of Commissioners October 7, 1985 authorizing the implementation of the Shelby County Homestead Program. Sponsored by Commissioner Steve Mulroy. \(DEFERRED FROM 9/23/09\)](#)

Motion made by Commissioner Flinn and seconded by

Commissioner Brooks.

Passed

For: 9; Commissioner Brooks, Commissioner Malone,
Commissioner Carpenter, Commissioner Harvey,
Commissioner Flinn, Commissioner Gibson,
Commissioner Avery, Commissioner Chism,
Commissioner Bunker,
Against: 3; Commissioner Ford, Commissioner Kuhn,
Commissioner Mulroy,
Abstain: 0; (None)
Recused: 0; (None)
Absent: 1; Commissioner Ritz,

Announcements/Statements

27. [Notification from County Mayor of appointments/reappointments to various Boards, Commissions, and offices of Shelby County Government. a\) Resolution approving the County Mayor's nomination of William A. Hartsfield and William J. Jason for reappointment to the Memphis and Shelby County Mechanical/Gas Code Board. Sponsored by Commissioner Joe Ford. b\) Resolution approving the County Mayor's nomination of Andrew J. Trippel for appointment and Raymend P. Brown for appointment and reappointment to the Memphis and Shelby County Board of Adjustment. Sponsored by Commissioner George Flinn. c\) Resolution approving the County Mayor's nomination of Dr. Jose C. Yataco, Douglas P. Duggard, Jr., and Robert D. Cash for joint City-County appointment and Doris Boyd and Dr. Karl Pensak for joint City-County reappointment to the Memphis and Shelby County Air Pollution Control Board. Sponsored by Commissioner Flinn.](#)

Adjournment

28. [Resolution of adjournment to Monday, October 26, 2009 at 1:30 p.m.](#)

Motion made by Commissioner Malone and seconded by
Commissioner Carpenter.

Passed

For: 11; Commissioner Brooks, Commissioner Ford,

**Commissioner Malone, Commissioner Kuhn,
Commissioner Mulroy, Commissioner Carpenter,
Commissioner Harvey, Commissioner Flinn,
Commissioner Gibson, Commissioner Avery,
Commissioner Bunker,**

**Against: 0; (None)
Abstain: 1; Commissioner Chism,
Recused: 0; (None)
Absent: 1; Commissioner Ritz,**